REMARKS/ARGUMENTS

The Office has required restriction in the present application as follows:

The nine groups of inventions noted on pages 2 and 3 of the Office Action.

Applicants elect, **with traverse**, Group I, Claims 1-14, 17-25, 48-57, 60-62, 80-88 and 91-93 drawn to a polypeptide and compositions. Applicants further elect, **with traverse**, the species CPn0853 (SEQ ID NO: 60).

The Examiner has indicated that inventions I and IV/VI/VII/VIII are related as product and process of use and in the present application, the product could be used in a process to generate antibodies for affinity purification. In addition between inventions I and V/IX, the product as claimed of invention I can be practiced with a materially different product such as a DNA vaccination or composition or antibody composition. Between inventions II and IV/VI/VIII and IX the polypeptide of Group I can be used in a different process such as diagnostics. Between the other inventions the Examiner has indicated for example that the polypeptide of invention II could be used in a hybridization assay or to make recombinant proteins. The polypeptide of Group III could be used in the process of diagnosis. The antibodies of III could be used in a different process than V and IX, for example diagnostic assay or for amino affinity purifications. In addition the Examiner has indicated that the nine inventions are unrelated to one another in that they have different steps process parameters and have different outcomes.

Applicants respectfully traverse the Restriction Requirement on the grounds that no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctness between the identified groups has shown that a burden exists in searching all of the claims. While the Examiner has indicated a number of reasons why the inventions are separate and distinct or unrelated, she has provided no references to support these conclusions. The Restriction is therefore defective to this extent and should be withdrawn.

Moreover the M.P.E.P. § 803 states as follows:

> If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits even though it includes claims to distinct or independent inventions.

Applicants submit that a search of all the claims would not impose a serious burden on the office.

Applicants further respectfully request that should the polypeptide product be found allowable, that the Examiner withdraw the restriction at least between the product and the method of using this product in diagnosing, detecting or screening and allow these methods with the product in accordance with the rejoinder procedures of M.P.E.P. § 821.04(a).

Accordingly and for the reasons presented above Applicants submit the Office has failed to meet the burden necessary in order to sustain the restriction requirement. Withdrawal of the Restriction Requirement is respectfully requested.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits and early notice of such action is earnestly solicited.

Respectfully submitted,

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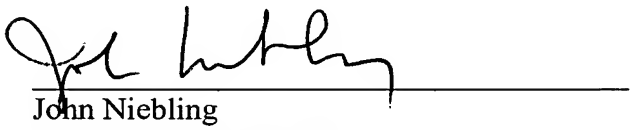

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